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## Media Release

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### **Biden Files Suit Against EPA to Protect Delaware's Air**

*Federal agency has failed to properly regulate health-hazardous soot pollution*

**Wilmington** – In a suit filed Friday in federal district court in New York, Delaware Attorney General Beau Biden joined a coalition of 11 states against the federal Environmental Protection Agency (EPA), asking the Court to direct the EPA to promptly propose, and then finalize, new soot pollution standards. The Attorneys General took legal action after the EPA failed to meet an October 2011 deadline to adopt new soot pollution standards, as required under the federal Clean Air Act.

“The health of our environment has a direct impact on the health of our families,” said Biden. “The EPA must do its job to reduce pollution, improve air quality, and protect the well-being of Delawareans and all Americans.”

Soot pollution, also known as fine particulate matter pollution or “PM 2.5,” is produced by diesel vehicles, power plants and other sources. Breathing in soot pollution can increase the risk of early death, heart attacks, strokes and emergency room visits for people with asthma, cardiovascular disease and diabetes. That risk is prevalent, with the EPA itself estimating that more than 100 million Americans – roughly one-third of the nation’s population – are especially susceptible to harm from soot pollution, including children, senior citizens, and people with lung disease. Additionally, the American Lung Association estimates that one in 17 Americans live in areas with unhealthy year-round levels of soot pollution.

EPA is expressly required to review and, as warranted, revise national air quality standards for several pollutants, including soot, every five years under the Clean Air Act. EPA last issued standards for soot pollution in October 2006. However, Delaware and a coalition of 16 other states challenged these standards as lax and being adopted against the advice of EPA professional staff and its own independent scientific advisory committee. In 2009, the U.S. Court of Appeals for the D.C. Circuit agreed with the states, holding that the EPA had not justified its decision not to issue stronger standards. The Court remanded the soot pollution standards to the EPA to issue new standards that will better protect public health. In a proceeding separate from the suit filed February 10, 2012, the states have a petition pending before the D.C. Circuit Court seeking an order requiring EPA to comply with the Court’s decision.

In lieu of taking meaningful action in response to the Court, the EPA stated that it would respond to the remand in the context of its next five-year air quality standard review deadline under the statute. However, that deadline – October 17, 2011 – passed without the Agency finalizing, or even proposing, a new standard. Because of this, on November 16, 2011, Attorney General Biden and the coalition of states sent a 60-day citizen lawsuit notice to the EPA, signaling their intention to sue over

the Agency's failure to adopt new soot pollution standards. The EPA has not responded to the coalition's notice, leading the coalition to take Friday's legal action.

The other state Attorneys General joining today's action are: California, Connecticut, Maryland, Massachusetts, New Mexico, New York, Oregon, Rhode Island, Vermont and Washington. The suit was filed by the New York Attorney General's office.

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